

as the practice, that before the case can be sent to the auditor to state an account distributing the proceeds, such particular tenant should bring the case before the Court by petition, by motion, or by submitting it to the Chancellor, with an affidavit of some disinterested and credible witness stating the age, health and \*condition of the widow or particular tenant; and if the widow should have married again it will be necessary that the testimony by affidavit should also identify, or shew her to be the same person under a different name, claiming with her then husband. *Greenwood v. Clarke, ante, 268.* And as the valuation of the life interest is to be made as of the day of the sale by which it is extinguished, the age, &c. of the particular tenant should be shewn as of that day. **283**

In this case the dower right to a part of the estate was extinguished by the sales made on the first day of May, 1829; and the order of the 17th of July, 1829, was made on the affidavit of the age, &c. of the widow as of that day of sale. But as the residue of the estate was not sold, and the dower right thereby extinguished until the 17th of December, 1830; the age of the widow had thus far advanced, and there might have been such a material change in her health, &c. as would have made a great difference in the amount to be awarded to her according to the Chancery rule; and therefore, there should have been, according to that rule, another affidavit as to her age, &c. But as this is a case governed by the limited legislative rule, and no objection is made, such further proof, as to her age, &c. as of the day of the last sale may be dispensed with.

Considering the life interest as having been sold and extinguished by the sale of the whole; when that sale has been finally ratified, the real estate is thereby converted, and the proceeds thereof vested absolutely in those then entitled to them; and consequently, if the particular tenant should die after that time, his or her share of the proceeds, according to age, &c. on the day of sale, will not, as the particular estate would have done, revert or sink, but go to the assignee or legal representatives of the deceased particular tenant. *Maccubbin v. Cromicell, 2 H. & G. 448; John Carr and others v. Richard Watkins and others, 12 June, 1838.—MS.*

Whereupon it is ordered, that the foregoing report of the auditor be, and the same is hereby ratified and confirmed; and the trustee is directed to apply the proceeds accordingly, with a due proportion of interest.